

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for
Early Termination of Probation:**

Pratap Lakshmi Narayan, M.D.

**Physician's and Surgeon's
Certificate No. C 52001**

Respondent

Case No. 800-2016-028272

DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 8, 2018.

IT IS SO ORDERED October 9, 2018.

MEDICAL BOARD OF CALIFORNIA

By: 
**Kristina D. Lawson, J.D., Chair
Panel B**

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Early
Termination of Probation of:

PRATAP LAKSHMI NARAYAN, M.D.,

Physician's and Surgeon's Certificate
No. C 52001

Petitioner.

Case No. 800-2016-028272

OAH No. 2018071248

PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on August 27, 2018, in Oakland, California.

Deputy Attorney General Brenda Reyes represented the Office of the Attorney General, Department of Justice.

Marvin Firestone, M.D., Attorney at Law, represented petitioner Pratap Lakshmi Narayan, M.D., who was present.

The matter was submitted for decision on August 27, 2018.

FACTUAL FINDINGS

1. On July 2, 2004, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. C 52001 to Pratap Lakshmi Narayan, M.D. (petitioner). On July 10, 2014, the Executive Director of the Board filed an accusation alleging that discipline should be imposed on petitioner's certificate. The accusation alleged that from 2007 to 2011, petitioner had committed repeated acts of negligence, prescribed medications without a prior examination, and maintained inadequate medical records, while providing psychiatric care to several inmates at the Fresno County Jail, where he was employed as the Medical Director of Psychiatric Services.

2. On August 21, 2014, the Board issued a Decision and Order effective August September 19, 2014, based upon a stipulated settlement between the parties. Pursuant to the Decision and Order, Physician's and Surgeon's Certificate No. C 52001 was revoked; however, the revocation was stayed for a period of five years on various terms and conditions. In addition to standard terms of probation, petitioner was ordered to enroll in a clinical training program (Condition 1), a prescribing practices course (Condition 2), and a medical record keeping course (Condition 3); and, he was ordered not to engage in solo practice without a practice monitor (Conditions 4 and 5).

3. Petitioner filed a petition to terminate probation early in November 2016, and this hearing followed.

Petitioner's Background

4. Petitioner graduated with a Bachelor of Medicine and Surgery from Adhra University in India in 1983. He attended Bangalore University where he earned a Diploma in Psychological Medicine in 1988, and a Doctoral Degree in Psychiatry in 1990. Petitioner worked as a staff psychiatrist at the National Institute of Mental Health & Neurosciences in India, from 1990 to 1992. He completed an internship in psychiatry at the Medical College of Virginia in 1993, and a residency in psychiatry at the University of Florida, Gainesville, in 1996. Petitioner completed a fellowship in forensic psychiatry at the University of Florida, Gainesville in 1997. Petitioner was awarded the outstanding resident award in 1997. He became board certified in psychiatry in 1997.

5. Petitioner worked as a staff psychiatrist for the Department of Corrections in Florida from 1996 until 2000. From 2000 to 2007, he worked at the South Carolina Department of Mental Health, becoming the Psychiatric Service Director. From 2007 until 2013, petitioner worked as a psychiatrist and administrative medical director at the Division of Correctional Health Services in Fresno, a post which included the oversight of thousands of inmates at the County Jail and the juvenile population. Petitioner also maintained a private practice in forensic psychiatry from 2011 until 2014.

From 2012 until 2014, petitioner was employed as a senior psychiatrist at Avenal State Prison. He also served as the chief psychiatrist for Mule Creek State Prison in 2014. Since 2014, petitioner has worked as a telepsychiatrist for the California Department of Corrections and Rehabilitation in Elk Grove. He sees 10 to 14 patients per day, or 40 to 45 patients each week.

Petitioner's Performance on Probation

6. Petitioner completed Phase I of the University of San Diego Physician Assessment and Clinical Education (PACE) Program on March 18, 2015. He completed Phase II of the PACE Program on July 27, 2015. Upon completion of Phase II, PACE recommended that petitioner enroll in a course in psychopharmacology. PACE also

recommended that petitioner be proctored for a minimum of one month to improve his treatment plans and assessments.

Petitioner completed a course in psychopharmacology as recommended. Petitioner completed three months of proctoring as of January 20, 2016. Shannon Robinson, M.D., served as petitioner's proctor. Dr. Robinson, a Senior Psychiatrist Supervisor at the California Department of Corrections and Rehabilitation, reported to the Board that petitioner's diagnoses appeared correct and there was no evidence that he was inappropriately providing or withholding care.

7. Petitioner completed an approved prescribing practices course on March 15, 2015. He completed an approved medical record keeping course on March 17, 2015. Petitioner provided documentation of numerous other continuing education courses he has completed.

8. During probation, petitioner has not engaged in solo practice and therefore has not been required to have a practice monitor.

9. Petitioner has filed all quarterly reports and paid all probation monitoring fees; he will pay whatever he continues to owe on a prorated basis if his probation is terminated early.

10. Petitioner has complied with all terms of his probation. Petitioner's probation is currently scheduled to terminate on September 19, 2019.

Petitioner's Character Evidence

11. Bruce Philip Barnett, M.D., J.D., M.B.A., wrote a letter of recommendation for petitioner dated November 11, 2016. Dr. Barnett supports petitioner's early termination from probation. Dr. Barnett has known petitioner professionally for over six years. Dr. Barnett was the Chief Medical Consultant at the California Correctional Health Care Services where they worked together. They have also collaborated on joint presentations. Dr. Barnett reports having observed petitioner provide patients with care that is thoughtful, respectful and which comports with best practices; he considers petitioner's assessments and advice to be evidence-based and cautious. Dr. Barnett reports that petitioner is a well-respected psychiatrist within California Correctional Health Care Services.

12. Antony Fernandez, M.D., is a Professor of Psychiatry and Neurology at the Virginia Commonwealth University School of Medicine. Dr. Fernandez worked with petitioner at the National Institute of Mental Health & Neurosciences post graduate institution in India. Petitioner and Dr. Fernandez have known each other for many years and have collaborated on many presentations. Dr. Fernandez has been impressed by petitioner's psychiatric knowledge and willingness to share information. He notes that petitioner was awarded the Outstanding Public Sector Psychiatry award by the Indo American Psychiatric

Association in May 2015. Dr. Fernandez supports petitioner's early termination from probation.

13. Karl Douyon, M.D., M.S., is a board certified psychiatrist. He has maintained a private practice since 2003; Dr. Douyon was employed as a staff psychiatrist by the California Department of Corrections from 2006 to 2012, and as a senior psychiatrist for the Department since 2017. Dr. Douyon wrote a letter in support of early termination of petitioner's probation dated August 16, 2018. Dr. Douyon has supervised petitioner's work over the past year, and reports that petitioner has performed quite well. He considers petitioner to possess exemplary clinical skills. Dr. Douyon strongly recommends that petitioner's probation be terminated at this time because he considers him to be a structured, knowledgeable and excellent physician.

14. William Walsh, Ph.D., testified at hearing in support of the early termination of petitioner's probation. Dr. Walsh earned a degree in clinical psychology in 1980. He attended medical school in Mexico, graduating in 1996, but due to personal family issues, did not pursue a residency or medical license. Dr. Walsh has worked as a psychologist for the California Department of Corrections for the past 20 years. For the past 10 to 11 years, he has served as the Chief Psychologist and Chief of Mental Health at the California Correctional Institute in Tehachapi. Dr. Walsh oversees the telepsychiatry program in which petitioner works. The telepsychiatry program has allowed inmates greater access to psychiatric care. Dr. Walsh considers petitioner to be an excellent psychiatrist. He sees his patients more frequently than other providers, and is rarely the subject of a complaint by an inmate. Dr. Walsh has had an opportunity to review petitioner's charts and considers his notes to be good and germane, and his approach proactive. Dr. Walsh also commends petitioner for striving to communicate and collaborate with his patients' primary care physicians and other members of the interdisciplinary care team.

15. Petitioner's wife, Nandini Narayan, M.D., is a pediatrician. Dr. Narayan testified at hearing in support of her husband's petition. Dr. Narayan has been licensed in California for over 20 years. She and petitioner have been married for over 20 years. Dr. Narayan is employed as a medical consultant for the California Public Employees Retirement System. Dr. Narayan has observed petitioner to be very diligent in meeting the requirements of his probation. She notes that petitioner found the PACE Program to be very illuminating. Dr. Narayan considers petitioner to be a lifelong student who strives to remain abreast of changes in the medical field. Dr. Narayan strongly supports her husband's petition.

16. Petitioner testified with credibility and humility at hearing. Petitioner attributed some of the issues leading to his discipline to the jail being extremely short staffed; the jail had 3,500 inmates and he was the only full-time psychiatrist. Petitioner was seeing 30 to 40 patients each day in addition to his administrative duties. Nevertheless, petitioner accepted full responsibility for his errors.

Petitioner has learned a great deal from the experience and from being on probation. He now limits his patient load to a reasonable number in order to provide good care and complete his charting, and he declines to perform administrative duties in addition to his clinical role. Petitioner is confident that the Board will not hear of any unprofessional conduct by him again.

17. Petitioner has earned three national certificates over the last three years, including professional certification in the field of correctional health care on January 1, 2016, and as a Certified Correctional Health Care Professional Physician in 2017. He has lectured nationally and abroad. Petitioner has also been appointed to the International Scientific Committee of the International Association of Law and Mental Health.

18. Petitioner found the PACE courses and the prescribing practices and medical record keeping courses to be very valuable. He would recommend them to all physicians.

19. Petitioner seeks early termination of probation because he feels that he has fully complied with the terms, has demonstrated to the Board that he has achieved personal growth, and is safe to practice without monitoring.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In a proceeding for the restoration of a license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license fully restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The showing of rehabilitation must be sufficient to overcome the former adverse determination; the standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

Statutory Authority

2. Business and Professions Code section 2307 provides that a licensee whose certificate has been placed on probation for three years or longer may petition for early termination of probation after two years. Petitioner's certificate was placed on probation on September 19, 2014; it is scheduled to expire on September 19, 2019. (Factual Findings 2 and 10.)

3. In determining whether to grant a petition for early termination of probation, all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability may be considered. (Bus. & Prof. Code, § 2307, subd. (e).)

4. Factors considered in determining whether a licensee has been rehabilitated include the following: a) the nature and severity of the act or crime involved; b) subsequent misconduct; c) the amount of time that has elapsed since the misconduct took place; d) evidence of rehabilitation; e) whether the conviction has been expunged; and f) whether the licensee has complied with the terms of probation. (Cal. Code Regs., tit. 16, §§ 1360.1, 1360.2.)

Analysis

5. Petitioner has accepted responsibility for his actions and has expressed remorse. Petitioner's misconduct occurred seven to 10 years ago. He has complied fully with the terms of his Board probation. Petitioner has learned from attending the PACE Program and the courses mandated by the Board. He has the full support of colleagues and his superiors. Dr. Walsh, petitioner's current supervisor, took the time to travel to Oakland to testify on petitioner's behalf. (Factual Findings 6 through 19.)

Petitioner has established that he is rehabilitated to the extent that further monitoring by the Board is not required to protect the public. Cause exists under Business and Professions Code section 2307 to grant the petition and to terminate petitioner's probation.

ORDER

The petition for early termination of probation of petitioner Pratap Lakshmi Narayan, M.D., is granted. Physician's and Surgeon's Certificate No. C 52001 is fully restored.

DATED: September 7, 2018

DocuSigned by:

Jill Schlichtmann

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JILL SCHLICHTMANN

Administrative Law Judge

Office of Administrative Hearings